

**Rule 14-517. Additional rules of procedure.**

(a) Governing rules. Except as otherwise provided in this article, the Utah Rules of Civil Procedure, the Utah Rules of Appellate Procedure governing civil appeals, and the Utah Rules of Evidence apply in formal discipline actions and disability actions.

(b) Standard of proof. Formal complaints of misconduct, petitions for reinstatement and readmission, and petitions for transfer to and from disability status shall be established by a preponderance of the evidence. Motions for interim suspension pursuant to Rule 14-518 shall be established by clear and convincing evidence.

(c) Burden of proof. The burden of proof in proceedings seeking discipline or transfer to disability status is on the OPC. The burden of proof in proceedings seeking a reversal of a screening panel recommendation of discipline, or seeking reinstatement, readmission, or transfer from disability status is on the respondent.

(d) Related pending litigation. Upon a showing of good cause, a formal action or a disability proceeding may be stayed because of substantial similarity to the material allegations of a pending criminal, civil, or disciplinary action.

(e) The complainant's actions. Neither unwillingness of the complainant to prosecute an informal or formal complaint, nor settlement or compromise between the complainant and the respondent, nor restitution by the respondent shall, in and of itself, justify abatement of disciplinary proceedings.

(f) Informal and formal complaints against OPC counsel, Committee members and Board. An informal complaint filed against OPC counsel, members of the Committee, or a member of the Board shall be assigned by the Chair to a screening panel. The chair of the assigned panel shall review the informal complaint and additional material, if any, that the screening panel chair asks the respondent to provide. An informal complaint which, upon consideration of all factors, is determined by a chair of the assigned the screening panel (which assignment shall be made by the Committee chair) chair to be frivolous, unintelligible, barred by the statute of limitations, is being or should have been addressed in another more appropriate forum, unsupported by fact or which does not raise probable cause of any unprofessional conduct, shall be dismissed by the screening panel chair without hearing by a screening panel. The chair of the screening panel shall notify the complainant of the dismissal stating the reasons therefor. The complainant may appeal a dismissal by the chair of the screening panel to the Committee chair within 15 days after notification of the dismissal is mailed. Upon appeal, the Committee chair shall conduct a de novo review of the file, and either affirm or reverse the dismissal. If the screening panel chair determines not to dismiss the complaint, or the Committee chair reverses the dismissal on appeal, the Committee chair shall request that the Supreme Court appoint a special counsel to present the case, and if necessary, a special screening panel. In all other respects, the matter shall proceed in accordance with this article. Special counsel shall be a lawyer outside of the OPC appointed by the Supreme Court to act as counsel for investigation and prosecution of the disciplinary complaint. Special counsel shall notify OPC counsel of the results of the investigation.

